

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MICHAEL HENRY, SR.

v.

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
ET AL.

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Civil No. – JFM-16-264

MEMORANDUM

This action was instituted against the American Federation of State, County and Municipal Employees, various State defendants, and Zen West Restaurant, Inc. and one of its managers, Po Chang, in the Circuit Court for Baltimore City, Maryland. It was removed by the State defendants on the ground that plaintiff asserted claims against them under 42 U.S.C. §1983.


In opposing a motion to dismiss filed by the State defendants, plaintiff apparently conceded that he had no viable claim under §1983. Nevertheless, on May 25, 2016, plaintiff filed a motion to amend/correct the initial complaint. Counts VII and VIII of the proposed amended complaint attempt to state claims under §1983. However, the claims clearly fall on their face since they are asserted against the Department of Juvenile Services and the State of Maryland, which are not “persons” within the meaning of §1983. *See Will v. Michigan Department of State Police*, 491 U.S. 58, 71 (1989). Accordingly, this court will *sua sponte* deny the motion for leave to amend/correct the initial complaint and will dismiss the §1983 claims asserted in the original complaint.

In light of this dismissal, this court will also decline to exercise supplemental jurisdiction over the state law claims asserted by plaintiff pursuant to 28 U.S.C. §1367 and will dismiss this

action. Plaintiff may, of course, refile this action in the Circuit Court for Baltimore City asserting only state law claims. However, nothing in this opinion should be construed as reflecting this court's belief that plaintiff has stated any viable claim under state law.

A separate order reflecting the rulings made in this memorandum is being entered herewith.

Date: 6/15/16


J. Frederick Motz
United States District Judge

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DISTRICT OF MARYLAND
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